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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2013-932

11 **NERVITA P. MINER, AKA NERVITA V.**
12 **PANGAN MINER**
13 **11171 Oakwood Drive, Apt. G212**
Loma Linda, CA 92354

A C C U S A T I O N

14 **Registered Nurse License No. 434278**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about November 30, 1988, the Board of Registered Nursing issued Registered
25 Nurse License Number 434278 to Nervita P. Miner, AKA Nervita V. Pangan Miner
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
27 the charges brought herein and will expire on June 30, 2014, unless renewed.
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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Registered Nursing (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.
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6 **STATUTORY PROVISIONS**

7 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
8 that the Board may discipline any licensee, including a licensee holding a temporary or an
9 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
10 Nursing Practice Act.

11 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
12 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
13 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
14 Code, the Board may renew an expired license at any time within eight years after the expiration.

15 6. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an
17 application for a certificate or license for any of the following:

18 ~~"(a) Unprofessional conduct, which includes, but is not limited to, the following:~~

19 A(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
20 functions.

21 7. Section 2762 of the Code states:

22 "In addition to other acts constituting unprofessional conduct within the meaning of this
23 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
24 chapter to do any of the following:

25 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
26 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
27 administer to another, any controlled substance as defined in Division 10 (commencing with
28

1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 ...

4 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
5 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
6 section."

7 REGULATIONS

8 8. California Code of Regulations, title 16, section 1442, states:

9 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
10 the standard of care which, under similar circumstances, would have ordinarily been exercised by
11 a competent registered nurse. Such an extreme departure means the repeated failure to provide
12 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
13 situation which the nurse knew, or should have known, could have jeopardized the client's health
14 or life."

15 9. California Code of Regulations, title 16, section 1443, states:

16 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
17 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
18 exercised by a competent registered nurse as described in Section 1443.5."

19 COST RECOVERY

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21 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
26 included in a stipulated settlement.

CONTROLLED SUBSTANCES

11. "Temazepam", a class of sedative/hypnotics, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(29), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022(c).

12. "Diazepam", generic for the brand name Valium 10 mg., a benzodiazepam derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(9), and is categorized as a dangerous drug pursuant to section 4022 of the Code.

13. "Hydrocodone" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(I), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

14. "Norco" and "Vicodin" are trade names for the narcotic substance hydrocodone or dihydrocodeinone with the non-narcotic substance acetaminophen. They are Schedule III controlled substances pursuant to Health and Safety Code section 11056(e)(4), and are categorized as dangerous drugs pursuant to Business and Professions Code section 4022.

15. "Hydromorphone", an opium derivative, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(J), and is categorized as a dangerous drug pursuant to section 4022.

16. "Dilaudid" is a trade name for Hydromorphone, an Opium derivative, which is classified as a Schedule II Controlled Substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(J), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

17. "Morphine Sulfate", the narcotic substance is a preparation of Morphine, the principal alkaloid of opium. It is classified as a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivisions (b)(1)(L), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

18. "Codeine", generic name codeine phosphate, is a Schedule II controlled substance as defined in Health and Safety Code section 11055 (b)(1)(G); and is categorized as a dangerous drug pursuant to section 4022 of the Code.

19. “Fentanyl” is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(c)(8), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

20. “Oxycodone”, trade name Percolone, is a synthetic opioid analgesic and a schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(M), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022(c).

21. “Methadone”, a synthetic opiate, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(14), and is categorized as a dangerous drug according to Business and Professions Code section 4022.

22. “Ambien”, a brand name for zolpidem tartrate, a nonbarbiturate hypnotic, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(32), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL SUMMARY

23. From in or about February 2011 through March 2011, Respondent, who was employed at Loma Linda University Hospital – East Campus (LLUH), violated LLUH policy and procedures through her inappropriate management of narcotics and falsification of medical

records. The circumstances are such that from February 2011 through March 2011, approximately 36 discrepancies involving the Respondent's management, administration and charting of medications were discovered in the medical records of the following patients:

a. Fifteen instances of missing medication.

1. Patient #003308500056¹: Temazepam, 30mg capsule removed on March 11, 2011 at 21:39 with no matching administration time.
2. Patient #003530490130: Diazepam, 5mg tablet removed on March 5, 2011 at 23:20 with no matching administration time.

¹ Patient numbers are used throughout this Accusation in order to protect the privacy of the patients.

- 1 3. Patient #005224150040: Norco, 5-325mg tablet removed on March 5, 2011
2 at 19:48 with no matching administration time.
- 3 4. Patient #18698400065: Hydromorphone, 4mg tablets (7) removed on
4 March 1, 2011 at 19:28 with no matching administration time.
- 5 5. Patient #18698400068:
6 i. Hydromorphone, 4mg injection removed on March 19, 2011, at
7 23:38, wasted .5 mg at 23:39 with no matching administration time.
8 ii. Hydromorphone, 4mg injection removed on March 22, 2011, at
9 23:30 with no matching administration time.
10 iii. Hydromorphone, 4mg injection removed on March 23, 2011, at
11 1:48 with no matching administration time.
12 iv. Hydromorphone, two 4mg injections removed on March 29, 2011,
13 at 18:43 with no matching administration time.
- 14 6. Patient #009370920019: Morphine Sulfate, 2mg injection removed on
15 February 13, 2011, at 20:54 with no matching administration time.
- 16 7. Patient #061127520007: Morphine Sulfate, 2mg injection removed on
17 March 22, 2011, at 20:31 with no matching administration time.
- 18 8. Patient #062674040006: Hydromorphone, 4mg tablets (2) removed on
19 February 13, 2011, at 1:42 with no matching administration time by respondent.
- 20 9. Patient #016551030054:
21 i. Hydromorphone, 2mg injection removed on February 21, 2011, at
22 00:41 with no matching administration time.
23 ii. Hydromorphone, 2mg injection removed on February 23, 2011, at
24 00:46 with no matching administration time.
25 iii. Hydromorphone, 1mg injection removed on February 23, 2011, at
26 00:47 with no matching administration time.
- 27 10. Patient #018937120019: Guaifenesin/Codeine, AC 10mL Syrup removed
28 on February 3, 2011, at 23:17, administered 5mL at 23:30, no wasting noted.

1 b. Three instances where a higher dose of medication was administered than was
2 removed from AcuDose².

3 11. Patient #005243490065: Zolpidem, 5mg tablets (11) removed on March
4 29, 2011, at 21:56, returned 10 tablets at 21:57, and wasted 1 tablet, documented that one 5mg
5 tablet was administered at 22:01.

6 12. Patient #018698400068:

7 i. Hydromorphone, 4mg injection removed on March 23, 2011, at
8 22:01, administered 5mg injection at 22:05.

9 ii. Hydromorphone, 4mg injection removed on March 23, 2011, at
10 01:51, administered 5mg injection at 02:01.

11 c. Seven instances where medication was administered one to eight hours after
12 removal from Acudose.

13 1. Patient #016074290155: Hydromorphone, 4mg tablets (3) removed on
14 March 14, 2011, at 20:34, wasted 2mg and administered 10mg at 21:56 (approximately one hour
15 and 21 minutes after removal).

16 2. Patient #018698400068: Fentanyl Patch, 50mcg removed on March 19,
17 2011, at 21:16, charted as administered at 02:00 (approximately four hours and 44 minutes after
18 removal).

19 3. Patient #060493430032: Hydromorphone, 2mg tablet removed on March
20 28, 2011, at 02:09, charted as administered at 05:45 (approximately three hours and 36 minutes
21 after removal).

22 4. Patient #014567130008: Morphine Sulfate, 2mg tablet removed on
23 February 4, 2011, at 19:15, charted as administered at 20:12 (approximately 57 minutes after
24 removal).

25
26
27 ² AcuDose-Rx is an automated medication dispensing cabinet used to ensure proper
28 dosage.

1 5. Patient #063138760008: Hydrocodone, 5/325 removed on February 7,
2 2011, at 21:47, charted as administered at 23:52 (approximately two hours and five minutes after
3 removal).

4 6. Patient #010532720083:

5 i. Hydrocodone, 5/325 removed on February 15, 2011, at 19:37,
6 charted as administered at 20:20 (approximately 43 minutes after removal).

7 ii. Hydromorphone, 2mg tablet removed on February 16, 2011, at
8 03:49, charted as administered at 06:39 (approximately two hours and 50 minutes after removal).

9 d. Five instances where administration of medication was charted prior to removal
10 from Acudose.

11 1. Patient #018698400068: Fentanyl Patch, 50mcg removed on March 23,
12 2011, at 02:50, charted as administered at 02:00 (administered approximately 50 minutes prior to
13 removal).

14 2. Patient # 14567120008:

15 i. Oxycodone ER, 80mg tablet removed on February 2, 2011, at
16 20:34, charted as administered at 19:00 (administered approximately one hour and 34 minutes
17 prior to removal).

18 ii. Oxycodone ER, 80mg tablet removed on February 3, 2011, at
19 21:14, charted as administered at 19:00 (administered approximately one hour and 14 minutes
20 prior to removal).

21 iii. Oxycodone ER, 80mg tablet removed on February 4, 2011, at
22 21:16, charted as administered at 19:00 (administered approximately one hour and 16 minutes
23 prior to removal).

24 3. Patient #018698400068: Methadone, 10mg tablets (2) removed on March
25 20, 2011, at 00:19, charted as administered at 21:00 on March 19, 2011 (administered
26 approximately three hours and 19 minutes prior to removal).

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1 e. Two instances where intravenous and post operative medications were removed
2 close to the same time and administered within minutes of each other, or administered at different
3 times.

4 1. Patient #016551030054:

5 i. On February 21, 2011 at 21:13 removed Zolpidem 5mg tablet and
6 Hydromorphone 2mg injection. Charted Hydromorphone as administered at 21:00, but charted
7 Zolpidem administered at 23:45.

8 ii. On February 22, 2011 at 21:05 removed Zolpidem 5mg tablet and
9 at 21:06 removed Hydromorphone 4mg injection. Charted Hydromorphone as administered at
10 21:00, but charted Zolpidem administered at 23:25.

11 f. One medication error where wrong dose was removed.

12 1. Patient #010743180042: On February 12 at 01:25, Norco 10/325 was
13 removed but charted as administered Norco 5/325 at 01:30 (Order was for Norco 5/325).

14 g. Three instances where medications were administered with no matching
15 dispensing time.

16 1. Patient #016551030054:

17 i. Hydromorphone, 3 mg administered on February 22, 2011 at 01:55
18 but no corresponding dispensing time.

19 ii. Hydrocodone/Acetaminophen, 10/325mg tablets (2) administered
20 on February 22, 2011 at 05:00 but no corresponding dispensing time.

21 2. Patient #061259710013: Morphine, .5mg administered on February 12,
22 2011 at 01:25 and 05:30 but no corresponding dispensing time.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct)

25 24. Respondent is subject to disciplinary action under section 2761 subdivision (a) in
26 that Respondent engaged in unprofessional conduct with regard to the treatment of patients. The
27 circumstances surrounding these acts are described above in paragraph 23 subsections (a) through
28 (g), inclusive, and are incorporated herein by this reference as though set forth fully.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Obtain, Possess and/or Administer Dangerous Drugs)

3 25. Respondent is subject to disciplinary action under section 2762 subdivision (a) in that
4 she obtained, possessed and/or administered controlled substances as defined by Division 10
5 (commencing with Section 11000) of the Health and Safety Code or Section 4022 in violation of
6 law. The circumstances surrounding these acts are described above in paragraph 23 subsections
7 (a) through (g), inclusive, and are incorporated herein by this reference as though set forth fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 (Falsify Medical Records)

10 26. Respondent is subject to disciplinary action under section 2762 subdivision (e) in that
11 she falsified or made grossly incorrect or grossly inconsistent entries into hospital or patient
12 records pertaining to controlled substances as defined by Division 10 (commencing with Section
13 11000) of the Health and Safety Code or Section 4022 in violation of law. The circumstances
14 surrounding these acts are described above in paragraph 23 subsections (a) through (g), inclusive,
15 and are incorporated herein by this reference as though set forth fully.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 (Gross Negligence and/or Incompetence)

18 ~~27. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1) on~~
19 the grounds of unprofessional conduct, in that Respondent committed acts of gross negligence
20 and/or incompetence within the meaning of California Code of Regulations, title 16, sections
21 1442 and 1443, involving the treatment of certain patients from February 2011 through March
22 2011, while she was employed at LLUH. The circumstances surrounding these acts are described
23 above in paragraph 23 subsections (a) through (g), inclusive, and are incorporated herein by this
24 reference as though set forth fully.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 434278, issued to Nervita P. Miner, AKA Nervita V. Pangan Miner;
2. Ordering Nervita P. Miner, AKA Nervita V. Pangan Miner to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: APRIL 19, 2013


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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